

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 STEVEN CITY BROOMFIELD,

4 Plaintiff,

5 v.

6 JOHN KEAST et al.,

7 Defendants.

Case No. 3:19-cv-00743-GMN-WGC

THREE STRIKES ORDER

8
9 **I. DISCUSSION**

10 Plaintiff is a prisoner proceeding *pro se*. On December 13, 2019, Plaintiff
11 submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and an application to
12 proceed *in forma pauperis*. (ECF Nos. 1, 1-1). However, on at least three (3) prior
13 occasions, the Court has dismissed civil actions commenced by Plaintiff while in detention
14 for failure to state a claim upon which any relief may be granted.¹

15 Pursuant to 28 U.S.C. § 1915(g), “if [a] prisoner has, on 3 or more prior occasions,
16 while incarcerated or detained in any facility, brought an action or appeal in a court of the
17 United States that was dismissed on the grounds that it is frivolous, malicious, or fails to
18 state a claim upon which relief may be granted,” he may not proceed *in forma pauperis*
19 and, instead, must pay the full \$400.00 filing fee in advance unless he is “under imminent
20 danger of serious physical injury.” 28 U.S.C. § 1915(g).

21 In his complaint, Plaintiff appears to allege that prison officials retaliated against
22 him in 2018 for using the grievance system. (See *generally* ECF No. 1-1). The Court
23 finds that these allegations fail to plausibly allege that Plaintiff is in imminent danger of
24 serious physical injury. See *Andrews v. Cervantes*, 493 F.3d 1047, 1055-56 (9th Cir.
25 2007) (holding that the exception to § 1915(g) applies if the complaint makes a plausible

26 ¹ See *Broomfield v. Baca*, 3:18-cv-00223-MMD-WGC (dismissed for failure to state a
27 claim on July 25, 2019); *Broomfield v. Aranas*, 3:18-cv-00184-MMD-WGC (dismissed for
28 failure to state a claim on August 12, 2019); *Broomfield v. Aranas* (dismissed for failure
to state a claim on September 3, 2019); and *Broomfield v. Aranas* (dismissed for failure
to state a claim on December 20, 2019). The Court takes judicial notice of its prior records
in the above matters.

1 allegation that the prisoner faced an ongoing danger of serious physical injury at the time
2 of filing). As such, Plaintiff must pre-pay the \$400.00 filing fee in full.

3 **II. CONCLUSION**


4 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*
5 *forma pauperis* (ECF No. 1) is denied.

6 It is further ordered that this action will be dismissed without prejudice unless
7 Plaintiff pays the \$400.00 filing fee in full within thirty (30) days of entry of this order.

8 It is further ordered that the Clerk of the Court shall send Plaintiff two copies of this
9 order. Plaintiff shall make the necessary arrangements to have one copy of this order
10 attached to the check paying the filing fee.

11 It is further ordered that the Clerk of the Court shall retain the complaint (ECF No.
12 1-1) but will not file it at this time.

13 DATED THIS 16 day of March 2020.

14 
15 _____
16 Gloria M. Navarro, Judge
17 United States District Court
18
19
20
21
22
23
24
25
26
27
28